

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

WOLFRAM ARNOLD, ERIK FROESE,  
TRACY HAWKINS, JOSEPH KILLIAN,  
LAURA CHAN PYTLARZ, and ANDREW  
SCHLAIKJER,

*Plaintiffs,*

v.

X CORP. f/k/a TWITTER, INC., X  
HOLDINGS CORP. f/k/a X HOLDINGS I,  
INC., and ELON MUSK,

*Defendants.*

C.A. No. 1:23-cv-528-TMH

**UNOPPOSED MOTION TO SEAL EXHIBITS 1 AND 2 TO  
PLAINTIFFS' LETTER REGARDING DISCOVERY DISPUTE [D.I. 147]**

Defendants, by and through their undersigned counsel, hereby move the Court for an order to seal Exhibits 1 and 2 attached to *Plaintiffs' Letter Regarding Discovery Dispute* [D.I. 146] (the "Letter"). Plaintiffs stated that they take no position with respect to this motion to seal. The grounds for this motion are as follows:

1. Plaintiffs filed their Letter on March 24, 2025. The Letter attaches as Exhibits 1 and 2 two transcripts of depositions taken in connection with confidential arbitrations before JAMS (the "Arbitration Depositions") [D.I. 146].

2. JAMS arbitrations are "confidential in nature." JAMS Rule 26. The Dispute Resolution Agreement ("DRA") between employees and the Company govern the arbitrations and contain a confidentiality provision whereby the parties agreed that "neither a party nor an Arbitrator may disclose the existence, content, or results of any arbitration" arising under the DRA "without the prior written consent of all parties." **Exhibit A**, DRA ¶ 7. Moreover, counsel

for the claimant in the arbitration in which the Arbitration Depositions were taken has contacted counsel for Defendant and expressed concern about the disclosure of their client's name in this proceeding.

3. A federal court has the "inherent equitable power to grant confidentiality orders." *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 785-86 (3d Cir. 1994). While there is a "presumption in favor of public accessibility," the Court has authority to seal documents "when justice so requires," provided the party requesting sealing demonstrates that the "interest in secrecy outweighs the presumption" of access. *In re Motions for Access of Garlock Sealing Techs. LLC*, 488 B.R. 281, 299–300 (D. Del. 2013) (quoting *LEAP Sys., Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 221–22 (3d Cir. 2011)). Where a party relies on assurances of confidentiality in entering into an agreement, that party has a privacy interest preventing disclosure of its non-public information. *See Leap Sys.*, 638 F.3d at 222.

4. Here, the testimony reflected in the Arbitration Deposition transcripts was provided with the understanding that the testimony would remain confidential under JAMS's Rules and pursuant to the DRA. Publicly disclosing the Arbitration Depositions violates JAMS's Rules and the DRA. Courts routinely recognize that protecting the confidentiality expectations of parties to a confidential arbitration is necessary to protect the integrity of arbitrations as a means of alternative dispute resolution. *See, e.g., Guyden v. Aetna, Inc.*, 544 F.3d 376, 385 (2d Cir. 2008) (confidentiality agreements are "so common in the arbitration context" that an "attack on the confidentiality provision is, in part, an attack on the character of arbitration itself"); *Fireman's Fund Insurance Co. v. Cunningham Lindsey Claims Management, Inc.*, 2005 WL 1522783, at \*3 (E.D.N.Y. June 28, 2005) (noting the "important policy interest involved in protecting the expectations of confidentiality belonging to parties who have chosen

an alternative means of dispute resolution”); *Group Health Plan, Inc. v. BJC Health Systems, Inc.*, 30 S.W.3d 198, 203-04 (Mo. Ct. App. 2000) (“Few parties would be willing to submit confidential materials to an arbitrator knowing that those materials could then be freely discovered in future unrelated proceedings, regardless of any actions taken to ensure confidentiality”).

5. Given the confidential nature of JAMS arbitrations and the provisions in the DRA prohibiting the disclosure of the existence, content, and results of an arbitration, Defendants request that the Court seal the Arbitration Depositions (attached as Exhibits 1 and 2 to Plaintiffs’ Letter) to preserve the confidentiality rights of both the Defendants and the employee who was involved in the arbitration. These interests in confidentiality outweigh any presumption or interest that may exist in favor of public access to the details of a private and confidential JAMS Arbitration.

WHEREFORE, Defendants respectfully requests that the Court issue an order sealing Exhibits 1 and 2 to Plaintiffs’ Letter (the Arbitration Deposition transcripts) [D.I. 146].

Dated: March 25, 2025

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